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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/642,891	08/18/2003	Fritz Tollner	85883.8276	3353

22242 7590 03/14/2006

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EXAMINER

MARCANTONI, PAUL D

ART UNIT	PAPER NUMBER
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1755

DATE MAILED: 03/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Notice of Non-Compliant  
Amendment (37 CFR 1.121)**

Application No.

10/642,891

Examiner

Paul Marcantoni

Applicant(s)

TOLLNER, FRITZ

Art Unit

1755

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

The amendment document filed on 09 January 2006 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121 or 1.4. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☐ 1. Amendments to the specification:
  - ☐ A. Amended paragraph(s) do not include markings.
  - ☐ B. New paragraph(s) should not be underlined.
  - ☐ C. Other \_\_\_\_\_.
- ☐ 2. Abstract:
  - ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
  - ☐ B. Other \_\_\_\_\_.
- ☐ 3. Amendments to the drawings:
  - ☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
  - ☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
  - ☐ C. Other \_\_\_\_\_.
- ☒ 4. Amendments to the claims:
  - ☐ A. A complete listing of all of the claims is not present.
  - ☒ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
  - ☒ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
  - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
  - ☒ E. Other: see attached sheet.
- ☐ 5. Other (e.g., the amendment is unsigned or not signed in accordance with 37 CFR 1.4):  
\_\_\_\_\_

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714.

**TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:**

1. Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment or an amendment filed after allowance. If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted.
2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the correction, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a *Quayle* action. If any of above boxes 1. to 4. are checked, the correction required is only the **corrected section** of the non-compliant amendment in compliance with 37 CFR 1.121.

**Extensions of time** are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action.

**Failure to timely respond** to this notice will result in:

**Abandonment** of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action; or

**Non-entry** of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

Legal Instruments Examiner (LIE), if applicable

Telephone No.

The applicant's amendment to the claims submitted 1/9/06 is a non-compliant amendment under 37 CFR 1.121 for the reasons stated below:

- 1) The listing of claims does not include the text of all pending claims including the withdrawn claims. Applicants list claims 1,9,10, and 13-15 as withdrawn but do not include the full text of these claims. It is improper to merely label the claim as (Withdrawn) without providing the full text of each withdrawn claim.
- 2) Claims 16-18 are still listed as (New) claims when in fact they are no longer new. They were listed as "new" in the 4/7/05 amendment of claims but now are no longer new claims. These should be listed as (Currently amended) and not (New).
- 3) The amendments to the claims are improper. In claim 2, for example, it still lists the crossed out portion "concrete article" and the added underlined term process (From 4/7/05 amendment) yet the new amendment of 1/9/06 should not contain the deleted terms "concrete article" any longer nor should the term process be underlined.

It appears that this situation occurs in all pending claims. Applicants must understand that if a term or terms were crossed out and thus deleted that they should not appear again in the next amendment. The same goes for previously amended and underlined terms. These terms should not be underlined in subsequent amendments. It is also confusing because the new 1/9/06 amendment contains cross-outs or deleted terms and newly underlined or added terms so it is difficult to determine if the changes were from the 4/7/05 amendment or 1/9/06 amendment.

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4) The amendment is also improper in that the applicants are now changing their invention from "A process for producing a concrete **article**" to "A process of producing a concrete **mixture**" which is a different invention from the originally elected invention. Applicants are reminded to delete the term "mixture" and amend back to article. Should applicants not do so, it will be treated as non-responsive as this is a non-elected invention. Thus, they are respectfully requested to amend it back to its original form. The applicants are thus respectfully requested to comply with the comments above for their next response to be fully responsive.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Marcantoni whose telephone number is 571-272-1373. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry Lorengo, can be reached on \*\*\*. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Paul Marcantoni  
Primary Examiner  
Art Unit 1755